

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation hereby respectfully submits its comments to the Notice of Proposed Rulemaking (NPRM) released December 9, 2005 (FCC 05-205) in the above-captioned proceedings. Sprint Nextel supports efforts to clarify what constitutes “sufficient” high cost universal service support, and “reasonably comparable” high cost and urban rates. The definitions adopted must be made with an eye towards controlling the size of the high cost fund, and ensuring that high cost support is distributed on a competitively neutral basis. The Commission also should reject the request of Puerto Rico Telephone Company (PRTC) for a new insular-specific support mechanism; however, if, contrary to Sprint Nextel’s recommendation, the Commission does establish such a mechanism, such insular support must be portable and made available to any eligible telecommunications carrier (ETC) in Puerto Rico.

I. Definition of “Sufficient Support” and “Reasonably Comparable” Rates

In the instant NPRM, the Commission has asked for comment on how to craft a non-rural high cost support mechanism that is “sufficient” and results in rates in high cost areas which are “reasonably comparable” to rates charged for similar services in urban

areas. In response to the court's remand order in *Qwest II*,¹ the Commission has asked how to define "sufficient" in a way that "appropriately considers the range of principles in section 254 of the Act," and how to define "reasonably comparable" in a manner "that comports with [the Commission's] duty to preserve *and* advance universal service" (NPRM, para. 1).

Sprint Nextel supports the goals of the universal service program, and applauds the Commission's on-going efforts to design rules which satisfy the statutory universal service requirements. However, as the Commission is well aware, the stability and viability of the current universal service funding mechanism are becoming increasingly problematic for technological and economic reasons, and the growth in the fund size, combined with a shrinking contributory revenue base, have resulted in double-digit contribution factors.² Thus, any action the Commission takes in the instant proceeding must be made with a careful eye to the impact such action will have on the size of the fund and the level of the contribution factor. At the same time, the Commission must continue to ensure that any restructured high cost support is distributed to eligible carriers in a competitively neutral fashion.

A. Definition of "Sufficient" Support

The Commission has previously defined "sufficient" as "enough federal support to enable states to achieve reasonable comparability of rural and urban rates in high-cost

¹ *Qwest Corp. v. FCC*, 398 F.3d 1222 (10th Cir. 2005).

² The universal service contribution factor for the second quarter of 2006 will be 10.9% (up from the 10.2% factor in effect for the first quarter of 2006). See Public Notice released March 13, 2006 (DA 06-571).

areas served by non-rural carriers.”³ In the instant NPRM (para. 8), the Commission has asked how it should “balance all seven principles in section 254(b) of the Act in defining the term “sufficient” for purposes of the non-rural high-costs support mechanism.”

Sprint Nextel believes that ‘sufficient’ support can be provided to non-rural high cost carriers consistent with these principles, while balancing the reality of limited financial resources.

Affordability (NPRM, paras. 9-11): Sprint Nextel believes that the concept of linking high cost support to an affordability benchmark has merit, and we await with interest the submission of a specific income-based proposal. It makes little economic or policy sense to subsidize basic local telephone service to wealthy communities or households that can afford to pay the full cost of such service, even in a high cost area. “Sufficient” support for these consumers should be equal or close to \$0, whereas “sufficient” support to a poor community may be many dollars per line. It is conceivable that continuing technological and competitive advances will increase the reach and reduce the cost of communications to the point that subsidies can be limited to providing support directly to low income households.

Sprint also agrees that the Commission should “consider the burden on universal service contributors when determining whether rates are affordable” (NPRM, para. 11). If the high cost fund over-subsidizes certain carriers (that is, offers more support than is needed to reduce rates in high cost areas to an affordable level, however defined), it is USF contributors and their customers who bear the financial burden. A high USF rate

³ *Federal-State Joint Board on Universal Service*, 18 FCC Rcd 22559, 22581 (para. 36) (2003) (“*Order on Remand*”).

can render a contributory service non-competitive vis-à-vis another service that does not contribute to USF, and can depress demand for contributory services. Thus, it is critical that the Commission avoid high cost support at levels in excess of what is needed to meet statutory requirements.⁴

Access to advanced services (NPRM, para. 12): Sprint Nextel does not dispute that recipients of high cost USF support use such funds to maintain and upgrade their networks in high-cost areas, including upgrades to make their networks capable of providing access to advanced services. However, because advanced services are not currently on the list of supported services, carriers may not include the costs associated with advanced services for purposes of computing and requesting high cost USF support.⁵ “Sufficiency” should not be defined in terms of enabling carriers to upgrade their networks to provide access to advanced services, since providing specific support for this purpose goes beyond current Commission policy, will cause the high cost fund to increase dramatically in size, and will discourage competitive entry and expansion by competitors who do not receive USF subsidies.

Specific and predictable support mechanisms (NPRM, para. 15): In the long term, high cost support can be considered sufficient only if it is sustainable, specific and predictable. There is currently an open proceeding at the Commission to re-evaluate the

⁴ Moreover, there is no guarantee that a carrier receiving excess high cost support will use such funds to improve basic local service in any way. The carrier might use such funds to finance entry into new markets (*e.g.*, video services), to cross-subsidize other product lines (*e.g.*, wireless or long distance services), or to unduly enrich stockholders (*e.g.*, special dividends paid for with USF subsidies).

⁵ See 47 U.S.C. Section 254(e) (“A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”)

USF contribution mechanism,⁶ as well as open proceedings relating to the classification of various services and whether those services must contribute to the federal USF.⁷

Prompt Commission action in these pending proceedings is critical to an evaluation of whether non-rural high-cost support can be deemed sufficient in the long term.

Access to advanced telecommunications services for schools, libraries and health care (NRPM, para. 16): Today, there are two federal universal service funds devoted specifically to the telecommunications needs of schools, libraries, and rural health care providers (the Schools and Libraries fund and the Rural Health Care (RHC) fund), with some \$2.65 billion in annual federal funding, detailed program rules, and significant USAC resources dedicated to advancing the telecommunications needs of these users. Given the size and scope of these two programs, it is not necessary for the Commission to consider “whether non-rural high-cost support helps enable schools, libraries, and health care providers to have access to advanced telecommunications services.” Devoting some portion of high cost USF funds to attempt to meet the telecommunications needs of schools, libraries and health care providers will vastly complicate administration of the high cost fund; introduce competitive distortions (not all providers of Schools and Libraries and RHC services are eligible to receive high cost funds); and is likely to bloat the high cost fund with inefficient and unsupported expenditures.

⁶ *Federal-State Joint Board on Universal Service, Report and Order and Second Further Notice of Proposed Rulemaking*, 17 FCC Rcd 24952 (2002).

⁷ *See, e.g., IP-Enabled Services, Notice of Proposed Rulemaking*, 19 FCC Rcd 4863 (2004).

Competitive neutrality (NPRM, para. 17): The Commission should affirm its prior determinations that high cost support is portable.⁸ Limiting high cost support to the incumbent local exchange carrier (LEC) would not be competitively neutral, and would discourage competitive entry and expansion. Although Sprint Nextel favors a definition of sufficiency that keeps fund size to the minimum necessary, to the extent that high cost support is available, it should be made available to all ETCs in the high cost area on a non-discriminatory basis.

B. “Reasonably Comparable” Rates

The Commission has defined “reasonably comparable” rates as rural rates which are within two standard deviations above the national average urban rate.”⁹ In the instant NPRM (para. 18), the Commission has asked for comment on how to define “reasonably comparable” in a manner which narrows the gap between urban and rural rates.

As an initial matter, Sprint Nextel would point out that non-urban rates are not necessarily higher than those charged in urban areas, an assumption that appears to underlie much of the high cost fund discussion. In fact, as can be seen in Attachment 1, there are many instances in which non-urban rates for basic local residential service are significantly lower than the national average urban rate.

It makes little sense to provide high cost support to carriers that charge very low rates for basic local service. The Commission should provide non-rural high cost support

⁸ See, e.g., *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8944 (para. 311) (1997); *Seventh Report and Order*, 14 FCC Rcd 8078, 8113 (para. 72) (1999); *Ninth Report and Order*, 14 FCC Rcd 20432, 20480 (para. 90) (1999).

⁹ *Order on Remand*, 18 FCC Rcd at 22578 (para. 30) and 22583 (para. 39).

only to the extent that a carrier's rate for basic local service exceeds, by a specified amount, a prescribed benchmark (such as the national average urban rate). A carrier could choose to offer basic local service at rates below the benchmark; however, it should not receive USF for any rate shortfall below the benchmark. Sprint Nextel recognizes that raising local service rates, or allowing USF support only for local service rates above the benchmark, may be politically difficult; however, such difficult decisions must be made (sooner rather than later) in order to move towards a more economically rational system that will allow the preservation and advancement of universal service in the long term.

Sprint Nextel would note that in most if not all cases, there is a strong link between low basic residential local service rates and high intrastate access charges: local carriers who cannot recover their costs from their local residential customers will seek to recover such costs from their intrastate access customers. This practice violates the Section 251(e) prescription against implicit subsidies, and extracting payment for non-cost-based access rates has serious negative consequences: it raises long distance rates, distorts competition in the toll market, and forces toll (long distance) carriers to subsidize the LEC. And, to the extent that wireless carriers are unable to extract similarly inflated access charge payments from other carriers using their wireless networks, they are placed at a competitive disadvantage compared to wireline LECs.

Sprint Nextel recommends that the Commission continue to define reasonably comparable rates in terms of local rates only (NPRM, para. 21). While it may be true that some consumers now purchase bundles of telecommunications services, the existing list of supported (by universal service funds) services includes only single party voice grade

service with DTMF signaling, and access to certain other services (emergency service, operator service, interexchange service, and directory assistance) – it does *not* include long distance, Internet access, cable, or other services which are often offered to consumers in a package bundled with basic local service.¹⁰ Thus, it makes no sense to use a benchmark which includes services other than basic local service, or to compute high cost support based on rates which encompass non-supported services.

II. PRTC’s Request for an Insular-Specific Support Mechanism Should Again Be Denied.

In its petition, PRTC has requested that the Commission adopt an interim non-rural insular mechanism based on embedded costs.¹¹ PRTC is the only incumbent carrier serving a high-cost insular area that is not currently classified as a rural carrier under the rural high-cost loop mechanism (NPRM, para. 34), so it would be the sole beneficiary of the proposed mechanism. As discussed below, PRTC has failed to demonstrate that its proposed USF mechanism is either necessary or in the public interest.

PRTC attributes its low and declining telephone subscribership rate “to the inherent costs of serving an insular area; a dispersed population; and the overall economic conditions facing the average Puerto Rico consumer” (Petition, p. 6).

¹⁰ Because long distance is not a supported service, the Commission’s concern about whether certain customers with relatively small calling areas make more intrastate toll calls is misplaced. In any event, the local carrier plays a significant role in defining local calling areas, and presumably sets its local calling area boundaries based on factors such as communities of interest and historic calling patterns. If it is a matter of concern that a local carrier has defined its local calling areas in a manner which enables them to maximize intraLATA access revenues (based on unreasonably high intrastate access rates), state regulatory bodies should consider the merits of rate rebalancing.

¹¹ *Petition For Clarification and/or Reconsideration of the Puerto Rico Telephone Co., Inc.*, filed on January 14, 2004 in CC Docket No. 96-45, p. 21.

However, PRTC has failed to consider the decline in its traditional wireline service subscription rate (and the resulting increase to its per-loop costs) attributable to accelerating wireless or VoIP (broadband) service substitution. Consumers may decide to “cut the cord” for price, feature, and/or quality of service reasons; none of these reasons would justify an increase in PRTC’s high cost USF support. Indeed, increasing USF support to a carrier that is experiencing competitive losses distorts economic signals and interferes with the effective functioning of a free market.

PRTC also states that Puerto Rico’s low subscribership “suggests that its rates may not be affordable” (Petition, p. 13). However, the problem with affordability can be addressed in large part by existing USF programs. The Lifeline and Link-Up programs, which target support at end users least able to pay for basic telephone service, arguably are a more efficient use of federal universal support dollars than is grant of USF support to a service provider. (There is no indication that PRTC has assessed the effectiveness of efforts to educate eligible subscribers about the availability of low income USF support.) And, although PRTC no longer receives high cost loop support,¹² its receipts from the Interstate Common Line fund increased from zero in 2003 to \$58 million in 2005.¹³

The Commission should be wary of establishing an interim high cost USF mechanism that applies to only a single entity, and that is based on a standard – embedded costs – that is economically irrelevant. Although Section 254(b)(3) of the Act

¹² PRTC’s recent interstate rates of return have been generally healthy: 11.96%, 23.00%; 22.26%; 4.59% and 19.48%, for calendar years 2000-2004 respectively (*see* ARMIS Form 43-01 filed by PRTC).

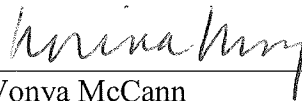
¹³ *See* USAC HC-01 quarterly reports. PRTC-Central received an additional \$9 m. in interstate common line support in 2005.

does mandate access to telecommunications and information services “in all regions of the Nation, including...in rural, insular, and high cost areas” at rates reasonably comparable to those in urban areas, it does not follow that a separate USF mechanism must or should be established for every mentioned category. It takes significant resources to develop and maintain such a mechanism, which would be better devoted to achieving broad universal service and intercarrier compensation reform. To the extent that PRTC believes that the Synthesis Model produces unreasonably anomalous results for PRTC, it can ask for a waiver.

If, contrary to Sprint Nextel’s recommendation, the Commission does decide to establish a separate insular USF mechanism, it must also specify that any support generated by that mechanism is portable to ETCs in Puerto Rico. The Commission has consistently held that USF support payments must be available to ETCs on a competitively neutral basis,¹⁴ and competitive equity and the public interest require a similar finding in the case of Puerto Rico.

Respectfully submitted,

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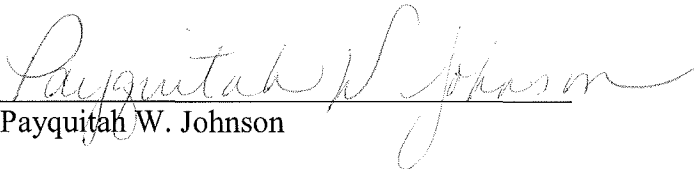
¹⁴ See note 8 *supra*.

Attachment 1
R1 Rates in Rural Areas for
Various Non-Rural Carriers

BellSouth (Florida)	\$8.98
SBC/AT&T (Oklahoma)	\$9.47
BellSouth (Tennessee)	\$7.78
Verizon (Texas)	\$7.10
SBC/AT&T (Texas)	\$8.15
SBC/AT&T (Arkansas)	\$11.11
BellSouth (Louisiana)	\$12.08
Verizon (Indiana)	\$12.35
Nat'l Avg Urban Rate	\$14.53

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "**COMMENTS OF SPRINT NEXTEL CORPORATION**" was filed electronically on this 27th day of March 2006 to the below-listed parties.


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